

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

David Lasseque,
Plaintiff

v.

Case No. 18-cv-109-SM
Opinion No. 2019 DNH 197

United States of America,
Defendant

O R D E R

Pro se plaintiff, David Lasseque, is a federal inmate currently incarcerated at the Rhode Island Adult Correctional Institution, in Cranston, Rhode Island. He brings this action against the United States pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 et seq. (the "FTCA").

Lasseque alleges that the federal Bureau of Prisons negligently misclassified him as a "maximum security" inmate when, in fact, he should properly have been classified as a "medium security" inmate. And, says Lasseque, BOP officials then refused/neglected to correct that error after they were made aware of it. Then, while he was incarcerated at USP Allenwood (a maximum security prison), Lasseque says he was assaulted by several inmates, resulting in injuries to his face and neck. Thus, says Lasseque, the negligence of the United

States proximately caused him to suffer personal injury. He also claims that, in the wake of his assault, he was denied appropriate medical care, in violation of his rights under the Eighth Amendment.

In response to Lasseque's complaint, the government moved to dismiss on two grounds, asserting: first, that venue is improper in this forum; and, second, that the discretionary function exception to the FTCA bars Lasseque's suit. Lasseque acknowledges that his suit "was filed in the wrong court" and moves the court "to withdraw his complaint for a change of venue." Motion to Withdraw (document no. 15) at 2. The government does not object to Lasseque voluntarily dismissing the action, but urges the court not to transfer venue to another district "because the action is barred by the discretionary function exception to the Federal Tort Claims Act." Government Response (document no. 16) at 1. Parenthetically, the court notes that Lasseque has not moved the court to transfer venue to another court.

In light of the foregoing, Lasseque's Motion to Withdraw (document no. 15) is granted to the extent he seeks to voluntarily withdraw his complaint, without prejudice. See 28 U.S.C. § 1404(a). The government's Motion to Dismiss (document

no. 9) is denied as moot. The Clerk of Court shall close the case.

SO ORDERED.



Steven J. McAuliffe
United States District Judge

November 20, 2019

cc: David Lasseque, pro se
Robert J. Rabuck, AUSA